

## Message Text

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ACTION EA-12

INFO OCT-01 ISO-00 SS-15 SP-02 INR-07 EB-08 L-03 PM-05

NSC-05 CIAE-00 /058 W

-----002372 231224Z /11-S

R 230902Z DEC 77

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 9637

SECDEF WASHDC

INFO HQ USAF JA

NAVY JAG

CINCPAC JA

CINCPACAF JA

CINCPACFLT JA

CINCPACREPPHIL JA

13 AF JA

C O N F I D E N T I A L SECTION 1 OF 2 MANILA 20220

E. O. 11652: GDS

TAGS: MARR, RP US

SUBJECT: AERO CLUBS

REF: MANILA 18181, DTG 170700Z NOV 77

1. SUMMARY: RECENT PRESIDENTIAL DECREE REGARDING AERO CLUBS SOMEWHAT MISDIRECTED AND MAY CAUSE MORE PROBLEMS THAN IT SOLVES. DEPARTMENTS' ADVICE SOLICITED ON FOREIGN REGISTRATION OF USG AIRCRAFT. END SUMMARY

2. EMBASSY HAS OBTAINED FROM DND SOURCE A COPY OF WHAT APPEARS TO BE A DRAFT PRESIDENTIAL DECREE, STAMPED SECRET, PERTAINING TO THE AERO CLUBS.

TEXT READS AS FOLLOWS:

QUOTE "PRESIDENTIAL DECREE NO.----

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AMENDING SECTION 12 AND 34 OF REPUBLIC ACT NO. 776

WHEREAS, IT IS THE INTENDMENT OF THE LAWS TO INSURE

AIR SAFETY THROUGH PROPER CONTROL BY THE GOVERNMENT OF

ALL AIRCRAFT OPERATING IN THE AIR SPACE OF THE PHILIPPINES;

WHEREAS, PRESENTLY, THERE ARE PRIVATE AERO CLUBS COM-

POSED OF UNITED STATES MILITARY PERSONNEL IN CLARK

FIELD AIR BASE, PAMPANGA, AND SUBIC BAY NAVAL BASE,

SUBIC, ZAMBALES THAT WOULD LIKE TO UTILIZE PHILIPPINE AIR SPACE, SUBJECT TO THE CONTROL AND REGULATION OF THE CIVIL AERONAUTICS BOARD, BUT CANNOT DO SO BECAUSE OF CITIZENSHIP AND FOREIGN-REGISTRY RESTRICTIONS UNDER R.A. NO. 776;

WHEREAS, AS A MANIFESTATION OF RP-US FRIENDSHIP, THE PHILIPPINE GOVERNMENT IS WILLING TO GRANT THE AFOREMENTIONED PRIVATE AERO CLUBS THE PRIVILEGE OF UTILIZING PHILIPPINE AIR SPACE;

NOW, THEREFORE, I, FERDINAND E. MARCOS, PRESIDENT OF THE PHILIPPINES, BY VIRTUE OF THE POWERS VESTED IN ME BY THE CONSTITUTION, DO HEREBY DECREE AS PART OF THE LAW OF THE LAND THE FOLLOWING AMENDMENTS TO REPUBLIC ACT NO. 776, OTHERWISE KNOWN AS "THE CIVIL AERONAUTICS ACT OF THE PHILIPPINES":

1. SECTION 12 OF REPUBLIC ACT NO. 776 IS HEREBY AMENDED TO READ AS FOLLOWS:

"SECTION 12: CITIZENSHIP REQUIREMENT-  
EXCEPT AS OTHERWISE PROVIDED IN THE CONSTITUTION AND EXISTING TREATY OR TREATIES, A PERMIT AUTHORIZING A PERSON TO ENGAGE IN DOMESTIC AIR COMMERCE AND/OR AIR TRANSPORTATION SHALL BE ISSUED ONLY TO CITIZEN OF THE PHILIPPINES: PROVIDED, THAT,  
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UNDER SUCH RULES AND REGULATIONS TO BE PROMULGATED BY THE CIVIL AERONAUTICS ADMINISTRATION, FOREIGNERS RESIDING IN THE PHILIPPINES WHO ARE MEMBERS OF AERO CLUBS ORGANIZED PURELY FOR RECREATION, SPORT, OR THE DEVELOPMENT OF FLYING SKILLS, MAY BE ISSUED PERMITS AS A PREREQUISITE TO ANY AERONAUTICAL ACTIVITIES WITHIN PHILIPPINE AIR SPACE."

2. THE FIRST PARAGRAPH OF SECTION 34 OF THE SAME ACT IS HEREBY AMENDED TO READ AS FOLLOWS:

"SECTION 34. ELIGIBILITY FOR REGISTRATION. EXCEPT AS OTHERWISE PROVIDED IN THE CONSTITUTION AND EXISTING TREATY OR TREATIES, NO AIRCRAFT SHALL BE ELIGIBLE FOR REGISTRATION UNLESS IT IS OWNED BY A CITIZEN OR CITIZENS OF THE PHILIPPINES AND IS NOT REGISTERED UNDER THE LAWS OF ANY FOREIGN COUNTRY:

PROVIDED, THAT, UNDER SUCH RULES AND REGULATIONS TO BE PROMULGATED BY THE CIVIL AERONAUTICS ADMINISTRATION, FOREIGN-OWNED OR REGISTERED AIRCRAFT MAY BE REGISTERED IF UTILIZED BY MEMBERS OF AERO CLUBS ORGANIZED FOR RECREATION, SPORT OR THE DEVELOPMENT OF FLYING SKILLS, AS A PREREQUISITE TO ANY AERONAUTICAL ACTIVITIES OF SUCH CLUBS

WITHIN PHILIPPINE AIR SPACE."

DONE IN THE CITY OF MANIL, THIS DAY OF ,  
IN THE YEAR OF OUR LORD, NINETEEN HUNDRED AND SEVENTY-  
SEVEN." UNQUOTE

3. ALTHOUGH SEVERAL FILIPINO SOURCES HAVE INDICATED THE

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ACTION EA-12

INFO OCT-01 ISO-00 SS-15 SP-02 INR-07 EB-08 L-03 PM-05  
NSC-05 CIAE-00 /058 W  
-----002393 231225Z /11-S

R 230902Z DEC 77  
FM AMEMBASSY MANILA  
TO SECSTATE WASHDC 9638  
SECDEF WASHDC  
INFO HQ USAF JA  
NAVY JAG  
CINCPAC JA  
CINCPACAF JA  
CINCPACFLT JA  
CINCPACREPPHIL JA  
13 AF JA

C O N F I D E N T I A L SECTION 2 OF 2 MANILA 20220

DECREE HAS BEEN SIGNED WE ARE HAVING DIFICULTY WITH  
BUREAUCRACY IN LOCATING AN AUTHORIATIVE COPY WHICH,  
HOWEVER, WE EXPECT TO BE SUBSTANTIALLY IDENTICAL  
TO THE DRAFT QUOTE ABOVE. COL. SORIANO, LEGAL OFFICER  
FOR DND, IS POSITIVE IT WAS SIGNED AS IS COL. RIDAO,  
AFP DEPTUY JAG AND CO-CHAIRMAN OF MDB LEGAL AFFAIRS  
COMMITTEE. COL. RIDAO CONFIRMS THAT FINAL DRAFT  
SIGNED BY PRESIDENT IS AS QUOTED ABOVE.

4. WHILE DECREE PURPORTS TO BE HELPFUL, IT CONTAINS  
SEVERAL FEATURES WHICH MAY CREATE PROBLEMS. IT MAKES  
NO REFERENCE TO ARTICLE XVIII OF THE MBA. AS DRAFTED  
IT WILL ARGUABLY CONSTITUTE THE SOLE AUTHORITY FOR  
AERO CLUB OPERATIONS. IF SO REGARDED, WHATEVER EXEMPTIONS  
PRESENTLY ENJOYED BY THE AERO CLUBS UNDER THE MBA  
MAY BE IMPINGED UPON.

5. A MORE SERIOUS PROBLEM FOR USG MAY ARISE FROM  
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APPARENT REQUIREMENT TO REGISTER USG OWNED AIRCRAFT  
WITH RP CAA. RP REGISTRATION SHOULD NEVER HAVE BEEN  
A PROBLEM. IT WAS ORIGINALLY RAISED IN A DECEMBER  
1976 LETTER FROM UNDERSECRETARY INGLES QUOTING A  
CAA PAPER IMPLYING THAT TO INSURE ADEQUATE CAA  
CONTROL, AERO CLUB AIRCRAFT SHOULD BE REGISTERED  
WITH THE CAA IF THE CITIZENSHIP PROBLEM COULD BE  
OVERCOME. IN INITIAL DISCUSSIONS OF AERO CLUB  
PROBLEMS, PAF (CHARGED WITH ENFORCING LETTER OF  
INSTRUCTION NO. 3 TO TAKE REASONABLE MEASURES TO  
CONTROL THE MOVEMENT OF NON-MILITARY FOREIGN-OWNED  
AND FOREIGN-REGISTERED AIRCRAFT) FELL AWAY FROM  
INSISTENCE ON REGISTRATION TACITLY CONCEDING THAT  
TO BE A NON-PROBLEM. THE ISSUE RESURFACED AT  
MALACANANG WHEN ENRILE OFFERED EXCUSE OF REGISTRATION  
PROBLEMS AS AMONG REASONS AERO CLUB OPERATIONS WERE  
HALTED. PRESIDENT MARCOS INSTRUCTED HIM TO ARRANGE  
FOR A "DISPENSATION" ALLOWING RESUMPTION OF OPERATIONS  
AND DECREE QUOTED ABOVE IS PRESUMABLY THE ILL-DESIGNED  
RESULT. (REFTEL)

6. WHILE WE ARE ATTEMPTING TO ASCERTAIN, COMPREHEND  
AND INFLUENCE CAA IMPLEMENTATION OF DECREE, WOULD  
APPRECIATE DEPARTMENT'S ADVICE ON FEASIBILITY OF  
OVERCOMING CHICAGO CONVENTION ARTICLE 18 PROHIBITION  
AGAINST DUAL REGISTRATION IGNORED IN DECREE.  
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## Message Attributes

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**Disposition Approved on Date:**  
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**Disposition Date:** 22 May 2009  
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**Previous Handling Restrictions:** n/a  
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**Review Markings:**  
Margaret P. Grafeld  
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US Department of State  
EO Systematic Review  
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**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009